

HOUSE BILL 3254
By Jones U

AN ACT to amend Tennessee Code Annotated, Title 28; Title 34; Title 38; Title 39 and Title 40, to enact the "Tennessee Violent Offender Tracking and Monitoring Act". This act makes appropriations for the violent offender tracking and monitoring program for the fiscal year beginning July 1, 2006.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act shall be known and may be cited as the "Tennessee Violent Offender Tracking and Monitoring Act".

SECTION 2.

(a) It is the intent of the general assembly in enacting the "Tennessee Violent Offender Tracking and Monitoring Act" to utilize the latest technological solutions to monitor and track violent criminal offenders, sexual offenders and violent sexual offenders in the state of Tennessee.

(b) In addition to providing this state with a more efficient and accurate method of monitoring and tracking these violent and predatory criminals, the purpose of the act is to compile comprehensive data on the experience of such a monitoring and tracking system in this state. This data will better enable the governor and general assembly to accurately determine the success or failure of such a program and whether it is worth the expenditure necessary to continue to administer it statewide.

SECTION 3. The general assembly hereby finds and declares the following:

(1) The United States department of justice has published confirmed statistics that over sixty percent (60%) of violent offenders, sexual offenders and violent sexual offenders in state prisons have a prior conviction history and that the number of

prisoners convicted for violent sexual assault has increased by an annual percentage of fifteen percent (15%) each year since 1980;

(2) Criminals who commit violent crimes and sexual crimes have shown unusually high recidivism rates, thereby posing an unacceptable level of risk to the community;

(3) Intensive supervision of violent offenders, sexual offenders and violent sexual offenders is a crucial element to both the rehabilitation of the released convict and the safety of the surrounding community;

(4) Mature technological solutions now exist to provide improved supervision and behavioral control of violent offenders, sexual offenders and violent sexual offenders following their release;

(5) These solutions can now also provide law enforcement and correctional professionals with significant new tools for electronic correlation of the constantly-updated geographic location of supervised violent offenders, sexual offenders and violent sexual offenders following their release with the geographic location of reported crimes, both to possibly link released offenders to crimes or to possibly exclude released offenders from ongoing criminal investigations; and

(6) Continuous twenty-four (24) hours a day, seven (7) days a week electronic monitoring of violent offenders, sexual offenders and violent sexual offenders is a valuable and reasonable requirement for those convicts who are placed on probation; who have failed to register as a sexual offender as required by law; or who have been released from incarceration while they remain under the active supervision of the department of correction, the board of probation and parole, or other state and local agencies.

SECTION 4. Tennessee Code Annotated, Section 40-28-201(a), is amended by

deleting subdivision (2) in its entirety and substituting instead the following language:

(2) In addition to the other charges and fees imposed by this section, any person who is under the jurisdiction and supervision of the board and is enrolled in an electronic monitoring and tracking supervision program shall be required to contribute such funds as the board deems necessary and reasonable to cover the applicable costs of the program. The provisions of this subdivision (a)(2) shall also apply to any probationer or parolee who is classified as a violent offender as defined in §40-39-301, or is transferred to the state of Tennessee from another state under the supervision of the interstate compact for the supervision of probationers or parolees, compiled as part 4 of this chapter.

SECTION 5. Tennessee Code Annotated, Section 40-39-301, is amended by deleting the section in its entirety and substituting instead the following language:

§40-39-301.

As used in this part, unless the context otherwise requires, "violent offender" means any person who is convicted in the state of Tennessee, on or after July 1, 2006, of any offense which caused or may have caused "serious bodily injury" as defined in §39-11-106(a)(34). "Violent offender" includes any such person who is convicted in any other jurisdiction of any offense which would classify such person as a violent offender as defined in this part, if committed in this state. "Violent offender" also includes any person who has been released on probation or parole following a conviction for any violent offense, to the extent that such person continues to be subject to active supervision by the board of probation and parole. "Violent offender" further includes any sexual offender as defined in §40-39-202(16), or any violent sexual offender, as defined in §40-39-202(24).

SECTION 6. Tennessee Code Annotated, Section 40-39-302, is amended by deleting

the section in its entirety and substituting instead the following language:

§40-39-302.

(a) The board of probation and parole in conjunction with the administrative office of the courts shall establish a violent offender tracking and monitoring program and promulgate guidelines governing it, consistent with the provisions of this chapter.

(b) The board shall carry out the following duties:

(1) By December 31, 2006, in consultation with all participating state and local law enforcement, the board shall develop implementing guidelines for the continuous satellite-based monitoring of violent offenders. Such a system may provide:

(A) Time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location tracking technology; and

(B) Reporting of subject's violations of prescriptive and proscriptive schedule/location requirements. Frequency of reporting may range from once-a-day (passive) to near real-time (active); and

(C) An automated system that permits local and state law enforcement to compare the geographic positions of monitored subjects with reported crime incidents and whether the subject was at or near such reported crime incidents. These alerts will enable authorities to include or exclude monitored subjects from an ongoing investigation.

(2) Prior to July 1, 2007, the board of probation and parole shall contract with vendors for the hardware services needed to monitor subject offenders and correlate their movements to reported crime incidents using a system meeting the requirements described in subsection (b)(1)(C).

(3) The board's contract with a vendor may provide for services necessary to implement or facilitate any of the provisions of this chapter including the collection and disposition of the charges and fees provided for in this chapter and §40-28-201(2) and to allow for the reasonable cost of collection of the proceeds.

SECTION 7. Tennessee Code Annotated, Section 40-39-303, is amended by deleting the section in its entirety and substituting instead the following language:

§40-39-303.

(a) Notwithstanding any other provision of law, the board of probation and parole shall require, as a mandatory condition of release for any violent offender so released under its supervision, that such person be enrolled in a satellite-based monitoring program for the full extent of the term of parole, consistent with the requirements of §40-39-302.

(b) The board of probation and parole shall require, as a mandatory condition of release for any violent offender or for such other offender as the board deems appropriate, that such person be enrolled in a satellite-based monitoring program for the full extent of such person's term of parole, consistent with the requirements of §40-39-302.

SECTION 8. Tennessee Code Annotated, Section 40-39-304, is amended by deleting the section in its entirety and substituting instead the following language:

§40-39-304.

(a) Intentional tampering with, removal of, or vandalism to a device issued pursuant to a location tracking and crime correlation based monitoring and supervision program described in §40-39-302 by a person duly enrolled in such a program is a Class A misdemeanor for the first offense, punishable by confinement in the county jail for not

less than one hundred eighty (180) days. The minimum one hundred eighty (180) day sentence provided for this Class A misdemeanor offense is mandatory, and no person committing such offense shall be eligible for suspension of sentence, diversion, or probation until the minimum sentence is served in its entirety. A second or subsequent violation under this section is a Class E felony. Additionally, if the person violating this section is on probation, parole, or any other alternative to incarceration, then the violation shall also constitute sufficient grounds for immediate revocation of probation, parole, or other alternative to incarceration. Any violation of this section shall result in the imposition of the mandatory sentencing condition specified in §40-39-303(a) and (b).

(b) Any person who knowingly aids, abets, or assists a person duly enrolled in a location tracking and crime correlation based monitoring and supervision program described in §40-39-302 in tampering with, removing, or vandalizing a device issued pursuant to such program commits a Class A misdemeanor.

SECTION 9. Tennessee Code Annotated, Section 40-39-305, is amended by deleting the section in its entirety and substituting instead the following language:

§40-39-305.

(a) The board of probation and parole is authorized to assess a daily or monthly fee, as the board deems reasonable and necessary to effectuate the purposes of this program, from violent offenders who are required by the board to participate in the violent offender monitoring program described in §40-39-302. This fee is intended to offset only the costs associated with the time-correlated tracking of the geographic location of subjects using the location tracking crime correlation system. Fees assessed by the board pursuant to this program may be collected in accordance with §40-39-302(b)(3).

(b) The board may waive all or any portion of the fees required by this section if

it determines that an offender is indigent or financially unable to pay all or any portion of such fee. The board shall waive only that portion of the surcharge which the offender is financially unable to pay.

SECTION 10. Tennessee Code Annotated, Section 40-39-306, is amended by deleting the section in its entirety and substituting instead the following language:

§40-39-306.

(a) Notwithstanding any other provision of law, the administrative office of the courts, the department of correction, the board of probation and paroles, the Tennessee bureau of investigation, and all local law enforcement agencies are specifically authorized to share criminal incident information (limited to the time, place, and nature of the crime) with each other and vendors selected by the board to carry out the purposes of this part, and the board is authorized to direct the vendors so chosen to use data collected pursuant to §40-39-302(b) in preparing correlation reports as described in that subsection for distribution to and use by state and local law enforcement agencies.

SECTION 11. Tennessee Code Annotated, Section 40-11-116, is amended by adding the following language as a new, appropriately designated subsection thereto:

(c)

(1) If conditions on release are found necessary, the magistrate shall require the defendant to enroll in a satellite-based monitoring program for the full extent of the release for any violent offender as defined in §40-39-301.

(2) Any defendant who is enrolled in an electronic monitoring and tracking supervision program shall contribute such funds as the court deems necessary and reasonable to cover the applicable costs of the program.

SECTION 12. Tennessee Code Annotated, Section 40-35-303(c), is amended by adding the following language as a new, appropriately designated subdivision thereto:

(3)

(A) As a mandatory condition of probation for any violent offender, as defined in §40-39-301, who is placed on probation, a court shall order an offender to enroll in a satellite-based monitoring program for the full extent of the probation period.

(B) Any defendant who is enrolled in an electronic monitoring and tracking supervision program shall contribute such funds as the court deems necessary and reasonable to cover the applicable costs of the program.

SECTION 13. Tennessee Code Annotated, Section 40-28-201(2), is amended by deleting the language "for violation of a serious offense or sexually violent offense, as defined in §40-39-201," and substituting instead the language "who is classified as a violent offender as defined in §40-39-301," in the second sentence of the subdivision.

SECTION 14. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 15. This act shall take effect on July 1, 2006, the public welfare requiring it.